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THE HON'BLE SRI JUSTICE GHULAM MOHAMMED
&
THE HON'BLE SRI JUSTICE B. SESHASAYANA REDDY

WP NO.24440 OF 2007

20th November, 2007

Between::
Boddepalli Satyavathi &
another

Petitioners

.....

AND

Farooq Abdullah &
Others
Respondents

.....

THE HON'BLE SRI JUSTICE GHULAM MOHAMMED
&
THE HON'BLE SRI JUSTICE B. SESHASAYANA REDDY

WP NO.24440 OF 2007

ORDER: (per Sri GM,J)

This writ petition is filed seeking to issue any appropriate writ, order or direction more preferably a writ in the nature of Certiorari calling for the records relating to the order dated 13-8-2007 passed in IA No.42 of 2006 in LGC No.57 of 2005 by the Special Court constituted under the AP Land Grabbing (Prohibition) Act, 1982, Hyderabad, for short, 'the Act' and quash the same as being illegal and arbitrary as it is contrary to the law laid down by this Court.

2. Heard the learned counsel for the petitioners. Perused the impugned order passed by the Special Court below.

3. The facts stated are that the respondents 1 and 2 herein filed LGC No.57 of 2005 seeking to declare the petitioners herein as land grabbers within the meaning of the Act, to prosecute them for the act of grabbing the schedule land under Sections 4 and 5 of the Act and consequently evict them from the land in question, and the same was taken cognizance by the Special Court-3rd respondent herein under Section 8 (1) of AP Act XII of 1982 having been satisfied of the prima facie evidence and the material furnished in the application filed support of the case. The petitioners herein who are respondents in the LGC case

contested the matter by filing counter affidavit and based on the respective pleadings, issues were framed by the Special Court-3rd respondent herein and at that stage, the petitioners herein filed the instant application under Section 151 CPC requesting the Court to decide the maintainability of LGC itself as a preliminary issue before proceeding further with the main LGC. By the impugned order, the Special Court dismissed the said IA. Hence, this writ petition.

4. Learned counsel for the petitioners strenuously contended that since the averments made in the concise statement filed by the respondents herein before the Special Court do not constitute a case warranting the Court to take cognizance, the petitioners took a preliminary objection as to the maintainability of the LGC and the Special Court dismissed it in a mechanical way without adverting to the averments made in the application. In support of his contention, learned counsel relied on the Full Bench decision of this Court in MOHD. SIDDIQ ALI KHAN v. M/S.SHAHSUN FINANCE LIMITED¹.

5. In the impugned order the Special Court observed that on 28-9-2005, the Bench before taking cognizance of the case heard the counsel for the applicants and after going through the averments made in the application as well as the concise statement and also 11 documents filed along with the application, taken cognizance of the case and in dismissing the IA, the Special Court relied on the decision of the Apex Court reported in 2002 (2) ALD (SC) page 56 wherein the Apex Court observed that mere allegation of land grabbing is sufficient to invoke the jurisdiction of the Special Court either suo motu or on application by any person including any officer or authority. The Full Bench decision of this Court in Mohd. Siddiq Ali Khan's case

(1 supra) cited by the learned counsel for the petitioners has explained, among others, the distinction between taking cognizance of a case by a

Court of competent jurisdiction, from mere initiation of the proceedings and it is was also held that registering the case and assigning number to it is a ministerial act, which cannot be equated to that of taking cognizance by a Court of competent jurisdiction, which requires intense application of mind to the facts.

6. In the instant case, the Special Court having satisfied prima facie with the material placed before it taken cognizance of the case, which being a discretion exercised by the Special Court to proceed with the matter based on prima facie material, and inasmuch as an issue is also framed as issue no.2 as to the maintainability of the case filed by the applicants-respondents herein, we do not find any illegality or irregularity in the impugned order passed by the Special Court warranting interference by this Court.

7. In the result, the writ petition fails and it is accordingly dismissed at the admission stage itself.

Mohammed, J

Ghulam

Seshasayana Reddy, J
Dated: 20th November, 2007
Nrg.

B.

¹ 2005 (2) ALT 503 (FB)